

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

ANTONIO MICHAEL SMITH,

Petitioner,

v.

CIVIL ACTION NO. 3:16-5692

(Criminal No. 3:13-00145)

UNITED STATES OF AMERICA,

Respondent.

**MEMORANDUM OPINION AND ORDER**

This action was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the Court deny Movant's "Emergency Motion to Correct Sentence Under 28 U.S.C. § 2255" (ECF No. 49), deny as moot the United States' Motion to Dismiss (ECF No. 55), and remove this matter from the Court's docket. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **DENIES** Movant's "Emergency Motion to Correct Sentence Under 28 U.S.C. § 2255" (ECF No. 49), **DENIES as moot** the United States' Motion to Dismiss (ECF No. 55), and **REMOVES** this matter from the Court's docket, consistent with the findings and recommendations.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: November 9, 2017

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', is written over a horizontal line.

ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE